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IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 700

ESCAMBIA CHEMICAL CORPORATION, *Petitioner,*

versus

STAMICARBON, N. V., *Respondent.*

REBUTTAL BY RESPONDENT

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Petitioner has nowhere shown that either court below considered PX60 or newly cited PX61 for purposes other than as showing the "state of the art". Petitioner nowhere shows that these publications were offered or admitted for proof of the "truth" of their contents. Nowhere does petitioner state *how* the "outcome" of this case was "substantially affected" (Reply Br. 4) by the peripheral issues relating to these exhibits (See Brief in Opposition, pp. 11-14, including footnote 11).

Petitioner fails to show that its Questions involve anything other than "sheerest sophistry" and a mere "exercise in semantics" (Petition, page 34a).

The Petition is groundless.

Respectfully submitted,

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Respondent.

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

First Question

Respondent does not meet the point raised by Petitioner. Petitioner contends that if the lower courts had applied the proper standard of law—as evidenced by the Mandrel and Court of Customs and Patent Appeal cases set forth at pp. 9-11 of the Petition, i.e., that a method claim that covered subject matter that would have been obvious for a person skilled in the art *to try*— a different conclusion would have to been reached. This is not a question of fact, but raises the issue of the proper or improper legal test to be applied to the facts.

Petitioner contends that a mere reading of the excerpts from the published prior art (pp. 40a *et seq.*) establishes